



## LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level  
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**ANNEMARIE POLAN**  
Building Commissioner

February 18, 2014

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, February 18, 2014, at 6:00 p.m. in the Assembly Room of the County Complex.

MEMBERS PRESENT:      Glen Minich              Wally Pritz  
                                 Candice Nelson          Melissa Mullins Mischke  
                                 Dwayne Hogan

OTHERS PRESENT:      Annemarie Polan, Recording Secretary, Attorney Doug Biege and  
Darlene Pavey, Secretary

Pledge of Allegiance.

Dwayne Hogan asked for a Motion for approval of the meeting minutes from January 21, 2014.

Melissa Mullins Mischke made Motion to approve the meeting minutes as presented.  
Candice Nelson seconded.

Dwayne Hogan asked if there are any questions, comments, or concerns.

All approved. Motion carried 5-0.

- 1. The Petition for Robbie & Elizabeth Britton** to operate a licensed home child care (12) maximum with unlighted sign to be determined. This property is located at 7725 E. US Highway 20, New Carlisle, Hudson Twp., zoned Ag.

Attorney Biege said that notice is adequate.

Dwayne Hogan asked for name and address for the record.

Elizabeth Britton, 7725 E. US Highway 20, New Carlisle, Indiana.

Dwayne Hogan asked Ms. Britton what she would like to do this evening.

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Ms. Britton said that she would like to open a licensed home child care center at their residence. Ms. Britton said that they've spoken with each of the neighbors individually indicated with the paper work and they're all in support of that and excited for their venture.

Ms. Britton said that living on the Highway one thing they have considered is the parking. Ms. Britton said that they have a little over an acre and a half and they have ample room for several people to park as well as a turn a round; that way they do not have to back out on the Highway.

Ms. Britton said that another consideration for outside is some signage. Ms. Britton said that they don't feel like they need a lit sign, but they're hoping for something maybe twelve square foot, whether it be 3x4 or 2x6 so is to not cause a safety issue with people trying to get information from the sign – like a telephone number.

Ms. Britton said that the business will be licensed as per the State of Indiana; she's looking to have a mixed age group, which would be six weeks through the start of Kindergarten. Ms. Britton said that she believes the State of Indiana can be licensed up to twelve, but for a mixed age group, the ratio would be a lot less than that. Ms. Britton said that depending on the children that she cares for, she might be subject to a licensing requirement in that regard, which the licensing specialist would indicate on the license how many she would be able to watch and care for.

Ms. Britton said that she meets the licensing requirements for education; she has a national credential CBA in pre-school and after this semester she has four classes until she will be awarded her associates in early childhood education.

Ms. Britton said that other licensing requirements for the home would be an annual water test; health regulations including, drug testing and a certification in CPR, as well as background checks.

Ms. Britton said that there is a need in our community and they're looking to fulfill that.

Dwayne Hogan asked Ms. Britton the hours of operation.

Ms. Britton said that on the licensing she is going to apply for 6:00 a.m. to 6:00 p.m. just because they're so close to the county line and she thinks that will better serve residents of La Porte County and maybe those coming from St. Joe as well, but probably operating hours would be closer to like 7:00 a.m. to 5:00 p.m.

Dwayne Hogan asked Ms. Britton if she wanted the sign lit, or unlit.

Ms. Britton stated unlit.

Dwayne Hogan asked if there are any questions of the Board.

Attorney Biege said that the only reason they're standing here is because, first he doesn't know the reason. Attorney Biege said that daycare with twelve or fewer children is a permitted "Use" in every zone except Ag. Attorney Biege said that is the only reason that they're standing here, because this would otherwise be automatic in the Indiana Zoning category.

Attorney Biege said that he also told Anne that he doesn't believe that the daycare restrictions that are set forth in the Zoning Code would apply here; he doesn't think the Court would impose additional restrictions that would not otherwise exist for all the other zoning categories.

Candice Nelson said that she wanted to ask about fencing. Ms. Nelson asked Ms. Britton if her license requires her to have fencing.

Ms. Britton stated yes. Ms. Britton said that State of Indiana requires thirty-five square feet outside per child and the children are required at anytime outside to be within the fenced area.

Candice Nelson was asking about the mixed age groups. Candice asked if that is infant to a certain age, or are they going to be separate from like teens to pre-teens.

Ms. Britton said that she's looking for licensing just for six weeks through pre-school age. Ms. Britton said that later on --- like after a year, you can apply to be school aged care, which would be like afterschool, but that's not stuff that she is looking for licensing at this time.

Candice Nelson asked Ms. Britton if her license requires her to have separate entrances in the State of Indiana.

Ms. Britton said that in the State of Indiana you are required to have two exits, not including a window, which they have a front door and they also have a sliding patio door that goes out the back so both of those are sufficient.

Dwayne Hogan asked Ms. Britton how many bathrooms.

Ms. Britton said that they have two and they're both on the main floor.

Wally Pritz asked Ms. Britton why she wouldn't want a lighted sign, because the hours would reflect early in the morning being in the dark and the same thing in the evening. Wally said that this would be a good spot for a lighted sign to be put near your driveway so people would be able to find your driveway without guessing where it's at.

Dwayne Hogan told Ms. Britton now is the time to do it.

Ms. Britton said from what they understood going through the process when applying, it was

kind of a big ordeal.

Wally Pritz said that he thinks that there is a safety issue – that's why he brought it up.

Ms. Britton said that they're not opposed to putting in a lighted sign, but there understanding was it was going to be a lot of ---

Wally Pritz said that being along a main Highway – Highway 20 would be a very good thing.

Dwayne Hogan said it would be a lot safer.

Dwayne Hogan asked Ms. Britton what size she would like the lit sign to be.

Robbie Britton said that he thinks that twelve square foot for the speed of 55 miles an hour zone there. Mr. Britton said that 3 foot by 4 foot or two foot by six foot would be sufficient for them to get the phone number and the web-site on there clearly.

Dwayne Hogan asked if there is a name for this.

Ms. Britton said that it is Destination's Home Child Care, LLC.

Attorney Biege said that the maximum size permitted for home occupation is 3x5 by code.

Dwayne Hogan asked if there are any questions from the Board.

Glen Minich said that our attorney started that if this wasn't in Ag. it wouldn't even be seen. Mr. Minich said that he does think that it is probably important that we talk about it and look at it because they're not allowed in Industrial either, are they? Glen said that Agricultural has some special things that go on as far as spraying fields and all that -- when we talk about this fence probably should be not so near your one border that is right there on the fields.

Ms. Britton said that the fencing that they've looked at will be directly behind the home.

Glen Minich told Ms. Britton that they have good space behind their home because there is even a buffer between the field because of the ownership of the other property. Glen said that's why we shouldn't just automatically allow them in Agricultural because you could run into that problem.

Ms. Britton said that one of the licensing requirements for being in the county is that your well is tested, which they have already had done and it came back satisfactorily.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 1.

Dwayne Hogan asked if there are any other questions, comments, or concerns of the Board.

Candice Nelson asked Ms. Britton if this is going to be operated in the basement, or on the first floor.

Ms. Britton said as for licensing, they won't be allowed to have children in the basement because they don't have ground level exit from the basement

Wally Pritz said that he would like to see the lighted sign somewhere near Highway 20 – Wally is going over a site plan with Mr. & Mrs. Britton.

Mr. Britton said that he is a union electrician.

Mr. Britton said that is an excellent location for the sign because it's a nice flat spot in their yard. Mr. Britton said that he could get electric out there fairly easy.

Ms. Britton said that the only consideration would be that they do have a gas line that goes through the property so they would have to make sure there is sufficient space, which she thinks there will be.

Dwayne Hogan told Mr. Britton to make sure he calls before he digs.

Dwayne Hogan asked if there are any other comments.

Wally Pritz made a Motion to approve the license home daycare center on property located at 7725 E. US Highway 20, New Carlisle with a lighted sign not to exceed 3x5 and hours of operation being 6:00 a.m. to 6:00 p.m. Monday through Friday.

Candice Nelson seconded.

Dwayne Hogan asked if there are any questions, comments, clarifications, or concerns.

All approved. Motion carried 5-0.

**2. The Petition for Corneliu and Gabriela Stef** to run an upholstery shop in an existing large warehouse/storage building. This property is located at 4291 N. US Highway 35, La Porte, Center Twp., zoned R1-B.

Attorney Biege said that notice to all the adjoining property owners was made, except for Alberta Jones and Lindia Clark, Dale & Valerie Heinz and Christine Blankenship, although provided receipt for certified mail service attempt.

Dwayne Hogan asked for name and address for the record.

Corneliu Stef and Gabriela Stef, 4291 N. US Highway 35.

Mr. Hogan asked Mr. Stef what he would like to do this evening.

Mr. Stef said that first of all he would like to say thank you for this opportunity. Mr. Stef said that it is the first time for him to be in this kind of setting because he's coming from a different country. Mr. Stef said that he moved to La Porte about three years ago. Mr. Stef said that it's a little different in Chicago. Mr. Stef said that they still work in Chicago – they still have the company in Chicago.

Mr. Stef said that what they would like to do is when they moved here they bought a house and on the property is a big warehouse – very large – nice and beautiful. Their business extended so much – it's not open to the public, but it is an extension from Chicago. Mr. Stef said that he has twenty full time employees which is a lot of work that he has and he can't find a lot of skilled employees and he's trying to look for extension to work at his house if possible and not to go to Chicago every day and hire two or three people from La Porte and the Michigan area.

Mr. Stef said that their intention is to just open up an upholstery shop – it's not open to the public where people are coming in. Mr. Stef said that it is just work from Chicago and he has a van to transport it here.

Dwayne Hogan asked Mr. Stef if he's going to employ two or three full time people.

Mr. Stef stated yes. Mr. Stef said that they can't do more because the way it is you would have to have room.

Dwayne Hogan asked if there are any questions, or comments from the Board.

Melissa Mullins Mischke asked Mr. Stef that if they were to grant the Petition, do you intend to put a sign up.

Mr. Stef stated no.

Melissa Mullins Mischke asked the hours of operation he'd like.

Mr. Stef said that they usually try to get from 7:00 a.m. to 5:00 p.m.

Melissa Mullins Mischke asked if that is Monday through Saturday, or Monday through Friday. Mr. Stef said Monday through Friday.

Wally Pritz asked if they would have any deliveries coming into the establishment.

Mr. Stef stated no. Mr. Stef said that everything is coming to Chicago – everything they need they bring from there.

Candice Nelson asked Mr. Stef if he's going to use this property to store.

Mr. Stef said basically (inaudible).

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 2.

**Remonstrator:**

1. Marilyn Conley, 4293 N. US Highway 35. Ms. Conley said that she is a neighbor next door and she owns the Banquet Hall and they also run a business out of there. Ms. Conley said that she is basically here for supporting the Stefs.

Dwayne Hogan asked if there were any other remonstrators for or against.

Dwayne Hogan asked if there were any other questions of the Board.

Dwayne Hogan said that he will entertain a Motion.

Glen Minich made a Motion that the Petition for Corneliu and Gabriela Stef to run an upholstery shop in an existing large warehouse/storage building on property located at 4291 N. US Highway 35, La Porte, Center Twp., zoned R1B be granted with hours of operation from 7:00 a.m. to 5:00 p.m., Monday through Friday.

Dwayne Hogan asked if he could have a second on this.

Melissa Mullins Mischke seconded.

Dwayne Hogan asked if there were any other questions, comments, or concerns.

All approved. Motion carried 5-0.

- 3. The Petition for Don Sabie, Jr.** to construct a pole barn an residence in rear of property with setback of rear 25' feet instead of the 50' feet and side setback 15' feet instead of the required 30' feet and build a garage in front with a setback of 25' feet instead of the 60' feet required and 15' feet on the side instead of the required 30' feet. This property is located at 3222 S. 425 W., La Porte, Scipio Twp., zoned Ag.

Attorney Biege said that legal is adequate.



Dwayne Hogan asked for name and address for the record.

Don Sabie, Jr., 6304 W. 250 S., La Porte.

Dwayne Hogan asked Mr. Sabie what he would like to do this evening.

Mr. Sabie said first of all, "Happy Spring" everybody. Mr. Sabie said that his property is on 3222 S. 425 W. Mr. Sabie said that he has two point five seven acres and what he would like to do is build two out buildings. Mr. Sabie said that he has agricultural zoning and what he would basically like to do would take it to where it's a residential zoning with the same setbacks as with residential. Mr. Sabie said that it's basically not agricultural anymore – they busted up the area and there is like seven or eight lots that were busted out of one section there.

Mr. Sabie said that what he would like to do is on the southeast corner he would like to come twenty- five feet from the road and fifteen feet from the sideline; on the southwest corner he would like to build a barn also that would be twenty-five feet from the back lot and fifteen feet from the side.

Dwayne Hogan asked the size of the barn.

Mr. Sabie said that the one in front would be 24x32 and the one in back would be 28x32.

Mr. Sabie said that he would like to build a small home on the northwest corner twenty-five feet setback from the back and fifteen from the side. Mr. Sabie said that the reason he really needs these changes is because he's kind of a nature guy and he'd like to leave – if he pulls the buildings in to where the agricultural setbacks are, then it's going to take most of the area that is in the center where there is natural grass and wildlife. Mr. Sabie said that he would like to keep that.

Mr. Sabie said that what he's doing is he's going to make a home for his retirement and he would like to have the birds and all the wildlife out there. Mr. Sabie said that he really respects the wildlife.

Dwayne Hogan asked if the pole barns were big enough – 20x32.

Mr. Sabie said that he thinks the one in the back might be a little bigger and asked if he has to state it now.

Melissa Mullins Mischke asked Mr. Sabie if he's worried about flooding at all right there.

Mr. Sabie said not really. Mr. Sabie said that there really hasn't been any flood situations and what he's going to do is he's going to make sure it's adequate. Mr. Sabie said that the people before him had changed where the ditch was originally and what he wants to do is put it back to



where it was so there is no problem there.

Glen Minich said that is a drainage issue.

Mr. Sabie said that he talked to the drainage board and it's not a legal drain. Mr. Sabie said that they built a ditch through there and the guys that were in there kind of diverted – and he would like to put it back where it's actually plotted so that it drains properly.

Dwayne Hogan asked Mr. Sabie if it's wet back there now.

Mr. Sabie said that it's average; he said that when it rains there is a spot that gets a little wet, but it has never stopped him from driving through there.

Wally Pritz said that he noticed that his traffic pattern on the traffic goes between the light spot. Wally asked if the light spot is wetlands.

Mr. Sabie asked to approach the bench to go over the site plan.

Board members and Mr. Sabie going over the site plan.

Mr. Sabie said that he's going to be honest with you and if he can't do this he's actually considering maybe doing a little farming on the property; he was considering maybe putting some hogs on there, because if he can't do this it's going to pull the building so close and it's going to be a thing to where he wants to do this or not.

Mr. Sabie thanked the Board.

Dwayne Hogan asked there are any other comments from the Board.

Dwayne Hogan asked if there are any remonstrators here this evening.

Dwayne Hogan asked for name and address for the record.

**Remonstrators:**

1. Thomas Corley, 1853 N. Lofgren Road, Rolling Prairie. Mr. Corley said that he owns the property directly north of Mr. Sabie's property. Mr. Corley said that he's been out there seven or eight years with the piece that he owns and if you have the same pictures that he has, the place is a junk pile and he hasn't seen any improvement and it has gotten worse over the years. Mr. Corley said that if we could do this, he would like his tenant Jeremy Hagenow to come up and talk about this because he's been out there every day putting up with this stuff, and he only sees it on occasion.

Dwayne Hogan said that he can remonstrator as well.

Mr. Corley said that in his opinion he thinks that Mr. Sabie's property is too close to the property line for agricultural use and besides the fact that the junk pile situation out there that has been there for years. Mr. Corley said that the sheets that he as shows the natural drainage.

Mr. Corley is up at the Board going over the site plan on the drainage situation and showing the pictures to Attorney Biege.

Mr. Corley asked where is the septic going to go – the natural drainage on that hill side goes right down towards the ponds and stuff and it just doesn't seem like a good issue to him.

Dwayne Hogan asked for the next remonstrator.

Dwayne Hogan asked for name and address for the record.

2. Jeremy Hagenow, 3178 S. 425 W., La Porte. Jeremy said that he lives directly to the north from the property that Tom has and he also owns four acres on the other side he bought a couple of years ago. Jeremy said that there are recent photos there two days ago and also in the picture he has outlined for you in the white area, Mr. Sabie's business. They've seen it continually grow and in the white you will see that those are gray areas from concrete to treated lumber, rock and any other sort of construction material you could fine, some of which has been removed in the years, but those piles have since grown.

Mr. Hagenow said that also what you fine in the red area outlined is wetlands. Mr. Hagenow said that wetland is classified by the US Department of Fish & Game of having cattails, willows; all these things are in there. Mr. Hagenow said that last year they had six foot of water from his house – he has a drainage issue where he lives and Mr. Sabie is much lower than he is. Mr. Hagenow said that he spent today opening culverts so he could drain snow. Mr. Hagenow said that he hates to see a guys dream busted, but this property is a dead horse; there is nothing you can do with it besides make it a recreational area, or as he stated himself, plant trees on it and let it go to nature.

Mr. Hagenow said that you have agricultural behind it; if you have a house within fifteen feet or twenty feet, every time you spray, every time fertilizer runs off, you're going to have issues. Mr. Hagenow said that somebody is going to be crying because there plants and dog passed away.

Mr. Hagenow said that he hates to crush a dream, but ultimately where all these houses are in here, should have never been built on. Mr. Hagenow said that there are just too many issues.

Mr. Hagnow said that as you can see, there are two sheds on the property and he believes the sheds already violate the zoning issue because they're within so many feet of the property lines.

Mr. Hagenow said that one is unfinished and one is actually – maybe on another property line; they haven't determined that.

Dwayne Hogan told Mr. Hagenow that he has the eighty feet in the red showing as wetland. Dwayne asked Mr. Hagenow how he determined that.

Mr. Hagenow that was on google. Mr. Hagenow said that is basically the back of the property line. Mr. Hagenow said that those are just rough estimates. Mr. Hagenow said that those are not to scale.

3. Lionel Snyder, 3268 S. 125 W. La Porte, Indiana. Mr. Snyder said that he owns the eight acres directly south adjoining this property. Mr. Snyder said that he has spent the last nine years mowing and grooming the property. Mr. Snyder said he has feeding stations back there for the deer, animals and birds and he can sit on his back deck and view that. Mr. Snyder said that is his little nature preserve. Mr. Snyder said that he believes that if you put a home back there and you put it close to his property line, that is going to disturb that property.

Mr. Snyder said that property is also a cross way from one feeding area to another feeding area. Mr. Snyder said that the only reason why he bought that property is because it is vacant on both sides.

Dwayne Hogan asked if there are any other remonstrators for or against.

Mr. Sabie said that one man's trash is another man's treasure. Mr. Sabie said that the materials that he has out there is all going to be used, or moved off the property. Mr. Sabie said that there won't be any thing stored out there in view ever after he gets these buildings built. Mr. Sabie said that all that stuff out there is actually good building materials.

Mr. Sabie said that he apologizes to the people that are here; it is unsightly and he feels bad about that. Mr. Sabie said that he actually planted some trees between Snyders and his to kind of block the view; he planted four flowering cherry trees that actually block his view from the piles of materials. Mr. Sabie said that everything on the lot will be cleaned up; all of the building materials will either be used or out of site.

Melissa Mullins Mischke asked Mr. Sabie if he has had any discussions with the County Health Department in regards to septic and wells.

Mr. Sabie stated no, but he did talk to Mr. Huber, the soil scientist and as soon as we decide what's going to go on here, then he is going to come out and take a look. Mr. Sabie said obviously they're going to do things legally.

Melissa Mullins Mischke said that one of the things that she is kind of concerned about is just

because the property has cattails or other plant material that lends itself to a wetland, doesn't necessarily mean it is a classified wetland. Melissa said that she would personally like to take that into consideration and maybe table this Petition until we can have a determination on whether or not it is a wetland. Melissa said that she would also like to take a better look at the trash when it isn't so snowy out.

Mr. Sabie said once again, this is not trash; these are all building materials.

Melissa Mullins Mischke said that she will say the "alleged trash".

Glen Minich said that he thinks that he agrees with Melissa that it probably needs to be tabled because we do need to have a soil scientist go out there. Mr. Minich said as far as Mr. Snyder's comment --- this is this man's property and he has the right to put a home on his property. Mr. Minich said that he does think it's possible, but he really doesn't like the idea of the rear setback; that's agricultural. Mr. Minich told Mr. Sabie his septic is most likely going to be in the back and separate you from that farm ground and it's going to be the best soil to have a septic system.

Mr. Sabie said that he talked to Mr. Huber and he said that I really needed to deal with you first before he came out there to see what is going on.

Mr. Minich said that he wouldn't be in favor of narrowing that rear setback.

Mr. Sabie said that he's flexible; he would meet partway or something like that. Mr. Sabie said that he's just trying to work it out -- he really doesn't want to be un-neighborly with anybody either. Mr. Sabie said whatever it takes to work it out to where everyone is okay he's more than willing to do that.

Mr. Minich told Mr. Sabie that is probably the best way that we could serve you if we would actually table this and then come back with a better blue print of where on the property the buildings and the septic are going to be and then the Board could make a better determination.

Mr. Sabie said that they use to have the wetland area -- they showed it on Beacon, but they took it off because it doesn't show it on there anymore -- it's just a small area back behind the front shed -- about fifty feet to sixty feet.

Glen Minich said that in an agricultural area the soil scientist has to come out and actually check the property before you do any physical digging because moving dirt that would be technically discovered as a wetland would be illegally.

Mr. Sabie said that he talked to IDEM and they actually told him to talk to him and they would give him whatever permits he needed. Mr. Sabie said that he's trying to cover the basis.

Dwayne Hogan asked if there are any other remonstrators.

Melissa Mullins Mischke made a Motion for Don Sabie, Jr. to construct a pole barn and residence in the rear of the property of rear twenty-five feet instead of the fifty feet and a side setback fifteen feet instead of the required thirty feet and to build a garage in the front with a setback of twenty-five feet instead of the sixty feet required and fifteen feet on the side instead of the required thirty feet for the property located at 3222 S. 425 W., Scipio Twp., zoned Ag. be tabled until the March 18<sup>th</sup> meeting.

Glen Minich said that he thinks that we should give him one more month.

Attorney Biege said that if you table it you do not have to set it for a date certain and when you have the material you need, then you can let Annemarie Polan know. Attorney Biege told Mr. Sabie that he will have to re-notice so your neighbors will have an opportunity.

Mr. Sabie said just to be more specific, what does he need to bring in here.

Glen Minich told Mr. Sabie that he needs to get a wetland determination by Julie at Soil & Water on Highway 4.

Melissa Mullins Mischke said that she would like to see is a proposed plan on --- maybe a little bit larger drawing that would show us where the proposed building are going to go with where the well and septic might be located.

Mr. Sabie said that he will have to get the soil scientist out there.

Melissa Mullins Mischke said she doesn't believe he needs to have the soil scientist look at it first, but perhaps a call to the County Health Department and let them look at it – it might be as quick as a meeting with them and they might be able to put you in the right direction.

Mr. Sabie thanked the Board.

Dwayne Hogan said that he has a Motion to table this.

Candice Nelson seconded.

Annemarie Polan, Building Commissioner, asked Mr. Hogan if this is tabled until April.

Dwayne Hogan told Annemarie until Mr. Sabie gets a hold of her.

All approved. Motion carried 5-0.

#### **Elections:**

Dwayne Hogan said that we will fill the President first.

Candice Nelson made a Motion that we approve Mr. Dwayne Hogan because he's done such a fabulous job for another term as our Board President.

Wally Pritz seconded.

Dwayne Hogan asked if there are any other nominations.

Dwayne Hogan said all in favor say Aye.

Voting Aye: Dwayne Hogan, Wally Pritz, Glen Minich and Candice Nelson.

Voting Nay: Melissa Mullins Mischke.

Motion carried 4-0.

Dwayne Hogan asked for nomination for Vice President.

Dwayne Hogan made a Motion for Melissa Mullins Mischke for Vice President.

Wally Pritz seconded.

Dwayne Hogan asked if there are any other nominations for Vice President.

Dwayne Hogan said all in favor signify by saying Aye.

Voting Aye: Dwayne Hogan, Wally Pritz, Candice Nelson, Glen Minch and Melissa Mullins Mischke.

Dwayne Hogan said that we probably could seek the attorney predicated on the outcome of the Plan Commission.

Melissa Mullins Mischke made a Motion to retain Attorney Doug Beige as our Attorney for the Board of Zoning Appeals assuming of course that is the case with the Plan Commission as well.

Dwayne Hogan asked for a second.

Candice Nelson seconded.

All approved. Motion carried 5-0.

Attorney Biege thanked the Board.

Dwayne Hogan asked if there is any other business before the BZA.

**Other Business:**

Glen Minich told Attorney Biege that they got notification on the question of some signage for advertisement. Glen asked Attorney Biege if he could bring that down one notch from what was written legally.

Attorney Biege said that it's not simple. Attorney Biege said that bottom line is of course he doesn't think it's a good idea and the reason he doesn't think it's a good idea is that the Indiana Statute which sets forth the requirements, but then we have due process requirements and equal protection, which means everybody has to be treated the same in the State. Attorney Biege said that if we impose a requirement now that is not a requirement in another county, that could become a challenge to the Board's decisions, but that challenge would be on whether or not the underlying Statute would be appropriate.

Attorney Biege said that he knows he got a little into it, but there is two ways to do it if you still want to proceed. Attorney Biege said one way would be an amendment to the Zoning Code and another way would be a rule imposed by the Board of Zoning Appeals. Attorney Biege said that the rule imposed by the Board of Zoning Appeals, the Board itself could waive or remove the rule. Attorney Biege said that if it's done as an amendment to the Zoning Code you won't have any discretion, you will have to do it every time all the time – pretty much, that's the significant simplification, but there is a lot to argue about when a grievated person who didn't like your decision with the sign.

Attorney Biege said another thing about the signs; you can't just have a sign that says Zoning Appeal pending. Attorney Biege said that you have to have all of the relevant information that is set out in the Statute.

Annemarie Polan, Building Commissioner, said that she would have to go before the counsel. Annemarie said that she doesn't have a fund for that. Annemarie said that would be expensive.

Glen Minich said that would make it expensive if we had to do that and he questions why we have to do that. Glen said that his other question is why we can't just procedurally pass the Building Commissioner to make it – we're required to advertise and if we say this is one form of advertisement, it's no different then it's done in the paper – or if we said they're are asked to identify the property just like they're in all the forms that we say we want it also identified visually on the site. Glen said that is more than a procedural issue then it is a governing issue.



Annemarie Polan, Building Commissioner, said that what if one sign gets lost, buried under the snow, or somebody takes it and then somebody else in the audience says well, he didn't have to have a sign on his property. Annemarie said that she doesn't know.

Glen Minich said we're just trying to serve the best interest of the community is all we're trying to do here. Glen said that we're trying to make sure that people in the neighborhood are aware that there is a site that's going to be possibly changed and we're just trying to –

Dwayne Hogan said public awareness.

Glen Minich said that it's a public awareness, but it's also just trying to be a buffer for the community that everybody understands we're trying to work things out and not make law.

Attorney Biege said that you're making law if you're changing the rules. Attorney Biege said that if that's what the Board wants to do of course he will defend, but remember, it's not just La Porte County – he thinks that's the key here. Attorney Biege said that we're going to create a rule and impose a requirement that nobody else in the State has to do. Attorney Biege said that this is a State Statute that creates the BZA and the State Statute that creates the rules. Attorney Biege said that he just wanted to remind you of that and he will defend whatever the Board does, of course.

Melissa Mullins Mischke said that she's thinking could it be as easy as the red building permit sign that we have people post in their windows; she's not suggesting necessarily that it has to be some posted thing outside that somebody's going to swipe, or a remonstrator. Melissa said that she's just saying a card in the window that notifies people that there is a Petition. Melissa said quite frankly that would help her sometimes because she can't always find the property. Melissa said that she had a difficult time today with the last Petition locating where that was at.

Board members and Annemarie Polan, Building Commissioner speaking amongst themselves.

Glen Minich said that he likes Melissa's idea of simply --- like she said it could be just as simple as a card board sign that would be put either at the address, which they all need to see, or in the building in which the zoning change is being looked at.

Melissa Mullins Mischke said that we can add that as a local rule, not as a State change to the Board of Zoning Appeals.

Attorney Biege said that he would suggest that if you're going to do it you can't change the Statute – Legislature – he would suggest that if you're going to do it the Board of Zoning would adopt a rule rather than make an amendment to the Joint Zoning Ordinance.

Melissa Mullins Mischke said that she thinks that was what the intent was.

Melissa Mullins Mischke said lets consider this more.

Glen Minich asked Annemarie Polan, Building Commissioner, if that would work.

Annemarie Polan, Building Commissioner, said that she goes to all of these places to take pictures and she's trying to envision putting out one of those red cards – let's say on that last property, she doesn't know where she would have put it. She doesn't know if it would stay in the wind, the snow, and everything else. Annemarie said that if there is a house, where does she put it.

Annemarie Polan, Building Commissioner, asked if she could give it to the people who are filing.

Glen Minich said that he thinks that it is their place to identify it. Glen said that when they come in for their paper work they're sent away with either a red card or an orange card. Glen said that he thinks in a matter of time other people in the community would be probably use to the procedure and say, "oh look", something is going to be coming up at the Board of Zoning Appeals.

Dwayne Hogan said that we can ponder a little bit more over that.

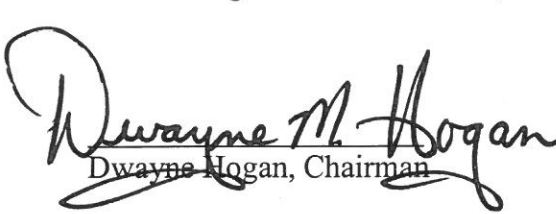
Dwayne Hogan asked if there is anything else we need to know about this evening.

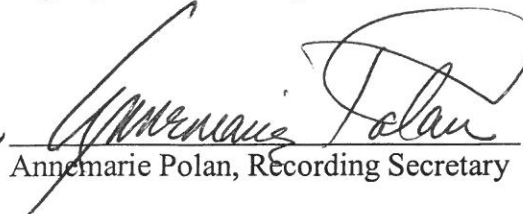
Melissa Mullins Mischke made a Motion to adjourn. Wally Pritz seconded.

Dwayne Hogan asked if there was any other questions, comments, or concerns.

All approved. Motion carried 5-0.

There being no further business, meeting adjourned at 6:57 p.m.

  
Dwayne Hogan, Chairman

  
Annemarie Polan, Recording Secretary